DALE A. AMATO, ESQ. (SBN 137965)
BERGER KAHN
A Law Corporation
10085 Carroll Canyon Road, Suite 210
San Diego, CA 92131-1027
Tel: (858) 547-0075 • Fax: (858) 547-0175

Attorneys for Defendant LIBERTY MUTUAL FIRE INSURANCE COMPANY

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

ASIA AWAD, Plaintiff, v. LIBERTY MUTUAL FIRE INSURANCE COMPANY, RAAD KHALAF and DOES 1 – 30, inclusive, Defendants.	CASE NO.: 08 CV 0696 JM(AJB) SDSC Case No. 37-2008-00062594-CU-IC-EC **NOTICE OF MOTION AND MOTION TO DROP RAAD KAHLAF AS A SHAM DEFENDANT PURSUANT TO F.R.C.P. RULE 21; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF; DECLARATION OF DALE A. AMATO** **DATE: 5-23-08** **TIME: 1:30 PM** **COURTROOM: 16**

TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD HEREIN:

PLEASE TAKE NOTICE that on May 23, 2008, or as soon thereafter as the matter may be heard at the above-captioned court, located at 880 Front Street, San Diego, California, 92101, Defendant Liberty Mutual Fire Insurance Company ("LMFIC") will move this court to drop improperly joined defendant Raad Khalaf ("KHALAF") from this lawsuit. This motion is brought pursuant to Rule 21 of the Federal Rules of Civil Procedure, and is made on the grounds that LMFIC is informed and believes that Raad Khalaf is a citizen of the State of California for diversity

BERGER KAHN
A Law Corporation
10085 Carroll Canyon Road, Suite 210
San Diego, CA 92131

purposes and is alleged to be the insurance agent for plaintiff, Asia Awad. (Complaint ¶¶ 15-20.) The complaint alleges theories of liability against KHALAF for Negligence, which is untenable as a matter of law and contra to existing California authority. KHALAF is improperly named as a sham defendant in an effort to avoid this court's jurisdiction.

This Motion is based upon this Notice of Motion, the accompanying Memorandum of Points and Authorities, the Declaration of Dale A. Amato and the entire court file in this matter, and on such other argument and evidence that may be presented at the hearing on this Motion.

DATED: April 17, 2008

BERGER KAHN
A Law Corporation

By: s/Dale A. Amato
DALE A. AMATO
Attorneys for LIBERTY MUTUAL FIRE INSURANCE COMPANY